

**Indigenous Advisory and Monitoring Committee – TMX
December 12 and 13, 2017
Indigenous and Northern Affairs Canada
1138 Melville Street, Vancouver, British Columbia
DRAFT Record of Decisions**

RECORD OF DECISIONS

1. WELCOME AND OVERVIEW

1.1 Agenda: IAMC-TMX Meeting, December 12 and 13

- The proposed draft agenda was adopted by the Committee with no amendments.

1.2 Record of Decisions: IAMC-TMX Meeting, November 9 and 10

- The Record of Decision from the November 9 and 10 Committee meeting was approved with the following addition to the end of section 3.4:
 - “and to ensure that the principle and government-to-government relationship reflected in Treaty is recognized in all of the Committee’s communications.”

2. IAMC-TMX INDIGENOUS MONITORS PROGRAM

- Raymond Cardinal (Alberta First Nations) and Mieke VanOosterom from the National Energy Board (NEB) delivered a presentation providing an overview of the objectives of the 9-month pilot program. The program will have Indigenous monitors accompanying NEB inspectors on inspections of the new and old pipeline. The scope of the pilot program will be contained to construction spreads 1 and 2 in Alberta (of the new and old pipeline).
- The pilot project will provide experience in having IAMC-TMX Indigenous Monitors on the ground with NEB Inspectors. The core objective of the project is to create a mechanism through which Indigenous communities can engage with and provide input to federal regulators on the Trans Mountain Pipeline throughout the lifecycle of the facilities.
- The pilot program is intended to inform a model that can be implemented in the other construction spreads along the pipeline, and share the model with the Line 3 IAMC.
- The recruitment, training, and employment of the local Indigenous monitors was discussed at length by the Committee. In an effort to make it easier for impacted communities in Alberta to participate in the pilot program, Committee members expressed the importance of articulating the specific time commitments expected for each monitor (i.e. How long are inspection activities? How many inspections will they take part in?). Committee members also suggested increasing the training budget to account for employee turnover.
- Committee members highlighted the importance incorporating Traditional Ecological Knowledge, local Elders, and cross-cultural training for the NEB into the pilot project. There was a suggestion that part of the proposal could be expanded to these items.

3. INDIGENEOUS ENVIRONMENTAL MONITORING PRESENTATION

- Carol Crowe from Indigenous Visions delivered a presentation on Indigenous environmental monitoring. Key topics discussed included: the importance of the Medicine Wheel and seasonality on traditional ecological knowledge; the ability to ground-truth data; the respect of traditional ecological knowledge as a science; the

importance of water; roles of elders in data collection; and, the need to innovate in this area.

4. INDIGENOUS ADVISORY AND MONITORING COMMITTEE: DEVELOPING A MONITORING IMPLEMENTATION FRAMEWORK

- Tracy Campbell and Germaine Conacher from MNP LLP delivered a presentation outlining the development of a framework for monitoring the Trans Mountain Project. The proposed framework is structured around three pillars of work: (1) monitoring compliance of conditions and commitments; (2) obtaining a better understanding of the efficacy of the proposed and approved mitigation measures; and (3) addressing concerns that are still outstanding.

5. UPDATES FROM REGULATORS

- **National Energy Board**
 - Brian Chambers from the NEB delivered an update on the Project's new estimated completion date (likely September 2020 instead of 2019); detailed route hearing process; removal of the last spawning deterrent mat; and an overview of administrative monetary penalties and other tools that the NEB has to enforce compliance.
 - There will be an Emergency Response Exercise on January 30-31, 2018, in the Jasper area. Kinder Morgan will be extending an invitation for up to three Committee members to attend. The purpose of the exercise is for Trans Mountain to demonstrate it is capable of responding to a spill in winter conditions and to interact with other responders.
 - A proposal and budget for an upcoming workshop on watercourse crossings will be brought forward for Committee decision at the January IAMC-TMX meeting.
- **Environment and Climate Change Canada**
 - Garth Mullins from Environment and Climate Change Canada (ECCC) delivered an update on an emergency order application filed under the Species at Risk Act related to caribou near Wells Grey Provincial Park. Ken Brock from the Canadian Wildlife Service will provide further information during the January IAMC-TMX meeting.
- **Transport Canada**
 - Ian Chatwell from Transport Canada (TC) delivered an update on the Memorandum of Understanding to advance measures to benefit the recovery of the Southern Resident Killer Whale through the Trans Mountain Expansion Project Conditions between DFO, TC, and the NEB; and the Oceans Protection Program.
 - Committee members raised concerns about the construction of a boom with razor wire at the Westridge Marine Terminal. The Committee will invite the Port of Vancouver to attend the January IAMC-TMX meeting to discuss this issue with them. The IAMC-TMX co-chairs will also raise this at their December 21, 2017 meeting with Kinder Morgan.
- **Fisheries and Oceans Canada**
 - Diana Trager from Fisheries and Oceans Canada (DFO) delivered an update on recent permitting decisions made by DFO; the removal of the last spawning deterrent mat; and the Monitoring Plan for the Marine Terminal construction.

7. TIER 1 – INDIGENOUS CAUCUS & FEDERAL CAUCUS

- The Indigenous Caucus raised several key issues relating to Committee operations and the Grants and Contributions Program.
 - The Caucus expressed a desire to give further consideration to operational burdens, which may involve developing an IAMC-TMX work plan, and have

additional human and technological (e.g. videoconferencing) resources to reduce Committee members' workloads.

- The Caucus also raised concerns regarding the small number of proposals put forward by communities. The Committee agreed that the Communications Manager for the Indigenous Caucus and the Secretariat will conduct additional outreach to the impacted communities, notifying them of the available capacity funding. Indigenous Caucus members will also canvas communities in their respective regions.

8. PROJECT DECISIONS

8.1 IAMC-TMX Indigenous Monitors Pilot Program

- Raymond Cardinal (Alberta First Nations) recused himself from all deliberations and decisions related to the IAMC-TMX Indigenous Monitors Pilot Program.
- The proposed IAMC-TMX Indigenous Monitors Pilot Program Proposal was approved by the Committee with the following amendment:
 - An additional \$100,000 will be made available for training and other cost considerations.

8.2 IAMC-TMX Monitoring Implementation Framework

- A working group consisting of Caitlin Kenny (Vancouver Island – South), Michelle Wilsdon (Alberta First Nations), Tim Dickson (JFK Law), and Brian Chambers (NEB) will help redefine the scope of this proposal and bring forward a recommendation to the Committee at the January IAMC-TMX meeting.

8.3 Work Camps Research & Engagement

- Naina Sloan, IAMC-TMX Co-Chair, presented a briefing note that outlined the impacts of work camps on Indigenous communities.
- The Committee approved to proceed with Option 2, the Secretariat to work with the Socio-economic Impacts Subcommittee to identify an organization (recipient) to execute a project with the objective to mitigate the impacts of work camps on Indigenous communities. The recipient will conduct further research/analysis and develop a plan for on-the-ground community engagement.
 - Suggested recipients can be sent to David Murray or Kyle Robertson for the IAMC-TMX's approval at a subsequent meeting.
- The Committee suggested considering how it would engage with the provinces and outreach to the President of the Native Women's Association of Canada.

8.4 Labour Force and Entrepreneurship Planning Proposal

- Tracy Friedel (Alberta Métis) recused herself from the deliberations and decisions related to the Lac Ste. Anne Proposal.
- The Committee approved the proposal with no amendments.

9. ENGAGEMENT

- Cathy Chalupa, Policy and Engagement Lead for the IAMC-TMX Secretariat, delivered an update on the work of the Engagement Subcommittee and the status of the Engagement Advisor position. A request for proposals will be posted on the Government of Canada's Buy and Sell page by Friday December 15th. A link to the job poster, with detailed instructions of how to share, will be sent to all Committee members before the January IAMC-TMX meeting.

10. COMMITTEE RESOURCING AND RECRUITMENT COMMITTEE

- Chief Ernie Crey, IAMC-TMX Co-Chair, provided an update on the statements of work for the IAMC-TMX Executive Director and Senior Science Director.

- The Committee approved the plan and budget for retaining and Executive Director and Senior Science Advisor to support the Committee, and the Senior Science Advisor Statement of Work with no amendments.
- The Committee approved the Executive Director Statement of Work documents with the following amendment:
 - Include language describing how these positions will work with the Committee to help advance relevant principles from UNDRIP and the Calls to Action from the Truth and Reconciliation Commission; and to ensure that the principles and government-to-government relationship reflected in Treaty are recognized.
- Norine Saddleback (Alberta First Nations), Brian Chambers (NEB), and Michelle Wilsdon (Alberta First Nations) will work with the Secretariat and IAMC-TMX Co-Chairs through the hiring process.

11. COMMITTEE BUDGET REVIEW AND G&C UPDATE

- Naina Sloan, IAMC-TMX Co-Chair, and Vananh Nguyen, IAMC-TMX Secretariat Contributions Program Lead, led a discussion on strategies for budget utilization.
- The Committee will explore an off-cycle re-profiling request. Tim Dickson (JFK Law) will draft a letter to the Treasury Board, seeking an off-cycle re-profiling request for the Committee. Vananh Nguyen and Tim Dickson will provide an update at the January IAMC-TMX meeting.
- Chief Crey, Tim Dickson, and Naina Sloan will form a small working group to explore guidelines for roles and delegated authorities (e.g. making decisions between meetings).
- The “Date of Application” will be added to all Memo for Decision documents to indicate when the Secretariat received the proposal and to inform service standards.

12. SUBCOMMITTEE FRAMEWORK

- David Murray, Senior Policy Advisor for IPO-West, provided an overview of the work done on the subcommittee framework. Comments from Committee members can be sent to David Murray or Kyle Robertson no later than January 8th, 2018.
- The Subcommittee Framework Policy will be brought to the January IAMC-TMX meeting for decision.

13. COMMUNICATIONS

- Walter Quinlan, IAMC-TMX Indigenous Caucus Communications Manager, led a discussion on immediate communications priorities, and provided an update on the IAMC-TMX temporary website.
- The IAMC-TMX temporary website will be launched December 15, 2017.

14. UNDRIP, TRC AND TREATY

- The Committee had a discussion of the importance of ensuring that the work of the IAMC-TMX is both guided by and reflects the principles outlined in the United Nations Declarations on the Rights of Indigenous Peoples; the calls to action from the Truth and Reconciliation Commission; and Treaty rights.
- Michelle Wilsdon (Alberta First Nations) and Tim Dickson (JFK Law) will further explore this important issue, and provide an update at the January IAMC-TMX meeting.

15. OTHER

- Norine Saddleback (Alberta First Nations) informed the Committee that she has taken a position with Tsuu T’ina First Nation (she was formerly working for Louis Bull First

Nation). She will remain a representative for Alberta First Nations impacted by the Trans Mountain Expansion Project. Her alternate is now Declan Starlight.

- Norine Saddleback volunteered to participate on the Committee working group to develop a proposal to involve Elders in the work of the IAMC-TMX. This working group was established at the November IAMC-TMX meeting.

PARTICIPANTS

<p><u>IAMC-TMX Members:</u></p> <ul style="list-style-type: none"> • Chief Ernie Crey (Fraser Valley) • Chief Harvey McLeod (Okanagan) • Chief Marcel Shackelly (Mid-Fraser/Thompson) • Carleen Thomas (Burrard Inlet/Lower Fraser) • Raymond Cardinal (Alberta First Nations) • Caitlin Kenny (Vancouver Island – South) • Tracy Friedel (Alberta Métis) • Terry Edgar (alternate for Kristine Pearson, Vancouver Island – Western Approach) • Michelle Wilsdon (Alberta First Nations) • Norine Saddleback (Alberta First Nations) • Naina Sloan (Natural Resources Canada) • Brian Chambers (National Energy Board) • Ian Chatwell (Transport Canada) <i>(Day 1)</i> • Cindy Hubbard (Transport Canada) <i>(Day 2)</i> • Garth Mullins (Environment and Climate Change Canada, alternate for Barry Jeffrey) • Diana Trager (Fisheries and Oceans Canada) • Lindsay Funk (Canadian Coast Guard, alternate for David Heap) <p><u>Indigenous Caucus Staff:</u></p> <ul style="list-style-type: none"> • Kyle Robertson, Technical Advisor • Walter Quinlan, Communications Manager <p><u>Other Participants:</u></p> <ul style="list-style-type: none"> • Tim Dickson, JFK Law 	<p><u>Support:</u></p> <ul style="list-style-type: none"> • Cathy Chalupa, Natural Resources Canada (NRCan), Indigenous Partnerships Office – West (IPO-W) • Margaret McQuiston, National Energy Board • Mieke VanOosterom, National Energy Board <i>(Day 1)</i> • Gregg Dahl, IPO-W • David Murray, IPO-W <i>(Day 2)</i> • Jacquie Béasse, IPO-W • Alex Allary, IPO-W <i>(Day 2)</i> • Karolina Pol, IPO-W • Chris Sheppard, IPO-W
<p><u>Regrets:</u></p> <ul style="list-style-type: none"> • Kristine Pearson, Vancouver Island – Western Approach • David Heap, Canadian Coast Guard • Chief Russell Chipps, Vancouver Island - Southeastern 	<p><u>Observers:</u></p> <ul style="list-style-type: none"> • Peter Hilton, Upper Nicola (Okanagan) <i>(Day 1)</i> • Declan Starlight, Tsuu T'ina Nation (Alberta First Nations)